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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/464,303	12/15/1999	GREGORY L. STAHL	B0801/7156	7348

7590

12/22/2003

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EXAMINER

VANDERVEGT, FRANCOIS P

ART UNIT

PAPER NUMBER

1644

DATE MAILED: 12/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/464,303

Applicant(s)

STAHL ET AL.

Examiner

F. Pierre VanderVegt

Art Unit

1644

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 October 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 30-32.Claim(s) objected to: 23-25.Claim(s) rejected: 18-22, 26-29, 33 and 34.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See Continuation Sheet

Continuation of 5. does NOT place the application in condition for allowance because: of the reasons of record. While Applicant has amended the claim to remove functional language, the claims still read upon embodiments that are not enabled and that are not disclosed. The claims are drawn to a "composition, comprising an MBL binding CDR3 region" of one of the recited monoclonal antibodies. The term comprising is an open term that means that a peptide can still have the CDR3 within a sequence of undisclosed amino acids which, as stated, can affect binding of the CDR3 to the ligand in an undisclosed manner.

As an example, claim 18 could be amended, in a manner supported by the specification, to read:

--A composition, comprising a peptide consisting of an antigen binding portion of a monoclonal antibody selected from the group consisting of [hybridoma lines] deposited under ATCC accession numbers [listing] respectively, wherein said antigen binding portion comprises the MBL binding CDR3 region of said monoclonal antibody--. Applicant must point out where in the specification an amendment of this nature finds support.

Continuation of 10. Other: Claims 23-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims

To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to F. Pierre VanderVegt, Ph.D. in Art Unit 1644. The Examiner can normally be reached by telephone at (703) 305-4441 on M-Th 6:30-4:00; Alternate Fridays 6:30-3:00.

Effective January 6, 2004, the Examiner's telephone number will be (571) 272-0852.

F. Pierre VanderVegt, Ph.D. *AV*
Patent Examiner
December 16, 2003

Patrick J. Nolan
PATRICK J. NOLAN, PH.D.
PRIMARY EXAMINER

12/18/03